

AMENDED IN SENATE APRIL 3, 2008

**SENATE BILL**

**No. 1561**

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**Introduced by Senator Steinberg**

February 22, 2008

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~~An act to amend Section 7508 of the Public Utilities Code, relating to railroads.~~ *An act to amend Section 369i of the Penal Code, and to amend Sections 99170 and 102122 of, and to add Section 99171 to, the Public Utilities Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1561, as amended, Steinberg. ~~Railroad corporations. Transit districts: prohibition orders.~~

*Existing law prohibits certain acts by a person with respect to the property, facilities, or vehicles of a transit district. A violation is an infraction punishable by a fine not exceeding \$75 on a first offense or a fine not exceeding \$250 or by community service on a subsequent offense.*

*This bill would authorize a transit district to issue a prohibition order to any person committing one or more of certain prohibited acts and under various other circumstances. The prohibition order would prohibit the person subject to the order from entering the property, facilities, or vehicles of the transit district for not more than one year. The bill would establish notice requirements in that regard and would provide opportunities for initial and administrative review of the order. The bill would require a transit district exercising this authority to establish an advisory committee and to ensure that personnel charged with issuance and enforcement of prohibition orders receive training.*

*Existing law provides that any person who enters or remains upon rail transit related property owned or operated by a county*

*transportation commission or transportation authority without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the rail line or rail-related facility is guilty of a misdemeanor.*

*This bill would extend the applicability of these provisions to rail transit related property owned or operated by a transit district. The bill would also modify the definition of rail transit related property to include transit vehicles. By revising the definition of a crime, this bill would thereby impose a state-mandated local program.*

*Existing law provides for creation of the Sacramento Regional Transit District, with specified powers and duties relative to operation of public transit services in its service area. Existing law authorizes the board of the district to designate persons regularly employed by the district as inspectors or supervisors with specified authority to enforce district ordinances and specified state laws, and sets forth the procedures to be followed in that regard.*

*This bill would additionally authorize the board of the district to designate security guards regularly employed by the district for this purpose. The bill would revise the authority of all of the persons designated by the board to incorporate additional procedures relating to arrest and other related matters.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law authorizes a railroad corporation, or a person or corporation owning any railroad, to sell, convey, and transfer its property and franchises, or any part thereof, to any other railroad corporation, subject to the provisions of the Public Utilities Act.~~

~~This bill would make a technical and nonsubstantive change to the above-described provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 369i of the Penal Code is amended to  
2     read:

1 369i. (a) Any person who enters or remains upon the property  
2 of any railroad without the permission of the owner of the land,  
3 the owner's agent, or the person in lawful possession and whose  
4 entry, presence, or conduct upon the property interferes with,  
5 interrupts, or hinders, or which, if allowed to continue, would  
6 interfere with, interrupt, or hinder the safe and efficient operation  
7 of any locomotive, railway car, or train is guilty of a misdemeanor.

8 As used in this subdivision, "property of any railroad" means  
9 any land owned, leased, or possessed by a railroad upon which is  
10 placed a railroad track and the land immediately adjacent thereto,  
11 to the distance of 20 feet on either side of the track, which is  
12 owned, leased, or possessed by a railroad.

13 (b) Any person who enters or remains upon any rail transit  
14 related property owned or operated by a county transportation  
15 commission~~or~~, transportation authority, *or transit district* without  
16 permission or whose entry, presence, or conduct upon the property  
17 interferes with, interrupts, or hinders the safe and efficient operation  
18 of the~~rail line~~ rail line or rail-related facility is guilty of a  
19 misdemeanor.

20 As used in this subdivision, "rail transit related property" means  
21 any land or facilities, *including transit vehicles*, owned, leased, or  
22 possessed by a county transportation commission~~or~~, transportation  
23 authority, *or transit district*.

24 (c) This section does not prohibit picketing in the immediately  
25 adjacent area of the property of any railroad or rail transit related  
26 property or any lawful activity by which the public is informed of  
27 the existence of an alleged labor dispute.

28 SEC. 2. Section 99170 of the Public Utilities Code is amended  
29 to read:

30 99170. (a) No person shall do any of the following with respect  
31 to the property, facilities, or vehicles of a transit district:

32 (1) Operate, interfere with, enter into, or climb on or in, the  
33 property, facilities, or vehicles owned or operated by the transit  
34 district without the permission or approval of the transit district.

35 (2) Interfere with the operator or operation of a transit vehicle,  
36 or impede the safe boarding or alighting of passengers.

37 (3) Extend any portion of the body through any window opening  
38 of a transit vehicle in a manner that may cause harm or injury.

39 (4) Throw any object from a transit vehicle.

1 (5) Commit any act or engage in any behavior that may, with  
2 reasonable foreseeability, cause harm or injury to any person or  
3 property.

4 (6) Violate a notice, prohibition, instruction, or direction on any  
5 sign that is intended to provide for the safety and security of transit  
6 passengers, or the safe and secure operation of the transit system.

7 (b) For purposes of this section, “transit district” means an entity  
8 that qualifies as a claimant, as defined in Section 99203, eligible  
9 to receive allocations under Chapter 4 (commencing with Section  
10 99200).

11 (c) A violation of this section is an infraction under Section 19.8  
12 of the Penal Code punishable by a fine not exceeding seventy-five  
13 dollars (\$75), and ~~that~~ a violation by a person after a second  
14 conviction is punishable by a fine not exceeding two hundred fifty  
15 dollars (\$250) or by community service that does not conflict with  
16 the violator’s hours of school attendance or employment for a total  
17 time not to exceed 48 hours over a period not to exceed 60 days.

18 (d) (1) *A transit district may issue a prohibition order to any*  
19 *person committing one or more of the acts described in paragraph*  
20 *(2). A person subject to a prohibition order may not enter the*  
21 *property, facilities, or vehicles of the transit district for a period*  
22 *of time deemed appropriate by the transit district, but not to exceed*  
23 *one year.*

24 (2) *A prohibition order may be issued to any person to whom*  
25 *any of the following applies:*

26 (A) *On at least three separate occasions within a period of 60*  
27 *consecutive days the person is cited for an infraction for any act*  
28 *that is a violation of paragraph (1), (2), (5), or (6) of subdivision*  
29 *(a) of this section, paragraph (1), (2), (3), (6), (7), (8), (9), (10),*  
30 *or (11) of subdivision (b) of Section 640 of the Penal Code, or*  
31 *Section 640.5 of the Penal Code.*

32 (B) *The person is issued an arrest warrant after failing to make*  
33 *an appearance upon being cited for a violation of subdivision (a)*  
34 *of this section or Section 640 or 640.5 of the Penal Code or any*  
35 *ordinance enacted by the transit district.*

36 (C) *The person is arrested for any misdemeanor or felony*  
37 *committed in or on a vehicle, facility, or other property of the*  
38 *transit district.*

39 (3) *No prohibition order issued under this subdivision shall be*  
40 *effective unless the transit district first affords the person an*

1 opportunity to contest the transit district's proposed action in  
2 accordance with procedures adopted by the transit district for this  
3 purpose. A transit district's procedures shall provide, at a  
4 minimum, for the notice and other protections set forth in  
5 subdivisions (e) and (f), and the transit district shall provide  
6 reasonable notification to the public of the availability of those  
7 procedures.

8 (e) (1) A notice of a prohibition order to be issued under  
9 subdivision (d) shall set forth the violation or violations giving  
10 rise to the prohibition order, including reference to the applicable  
11 statutory provision, ordinance, or transit district rule violated, the  
12 date of the violation, the approximate time of the violation, the  
13 location where the violation occurred, the period of the proposed  
14 prohibition, and the scope of the prohibition. The notice shall  
15 include a printed statement indicating the procedure for contesting  
16 the prohibition order. The notice of prohibition order shall be  
17 personally served upon the violator. The notice of prohibition  
18 order, or a copy, shall be considered a record kept in the ordinary  
19 course of business of the transit district and shall be prima facie  
20 evidence of the facts contained in the notice establishing a  
21 rebuttable presumption affecting the burden of producing evidence.

22 (2) For purposes of this section, "personal service" shall mean  
23 any of the following:

24 (A) In-person delivery.

25 (B) Delivery by first-class mail, postage prepaid, to at least one  
26 address provided by the person being served, including, but not  
27 limited to, the address set forth in any citation or in court records.

28 (C) Any alternate method approved in writing by the transit  
29 district and the person being served.

30 (3) If a person served with a notice of prohibition order is not  
31 able, or refuses, to provide a mailing address, the notice of  
32 prohibition order shall set forth the procedure for obtaining any  
33 letters, notices, or orders related to the prohibition order from the  
34 administrative offices of the transit district. For purposes of this  
35 section, delivery shall be deemed to have been made on the  
36 following date, as applicable:

37 (A) On the date of delivery, if delivered in person.

38 (B) At the earlier of actual receipt or the fifth calendar day  
39 following deposit in the United States mail, postage prepaid.

1     (C) For any alternate method of service, as provided in the  
2     writing specifying the alternate method.

3     (4) If a person contests a notice of prohibition order, the transit  
4     district shall proceed in accordance with subdivision (f). If the  
5     notice of prohibition order is not contested within 10 calendar  
6     days after delivery by personal service, the prohibition order shall  
7     be deemed final and shall go into effect for the period of time set  
8     forth in the order, without further action by the transit district.

9     (5) All prohibition orders shall be subject to an automatic stay  
10    and shall not take effect until the latest of the following:

11    (A) Eleven calendar days after delivery of the prohibition order  
12    by personal service.

13    (B) If an initial review is timely requested under paragraph (1)  
14    of subdivision (f), 11 calendar days after delivery by personal  
15    service of the results of the review.

16    (C) If an administrative hearing is timely requested under  
17    paragraph (2) of subdivision (f), the date the hearing officer's  
18    decision is delivered by personal service.

19    (f) (1) For a period of 10 calendar days from the delivery of  
20    the prohibition order by personal service, the person may request  
21    an initial review of the prohibition order by the transit district.  
22    The request may be made by telephone, in writing, or in person.  
23    There shall be no charge for this review. If, following the initial  
24    review, the transit district determines that the prohibition order  
25    is not adequately supported or that extenuating circumstances  
26    make dismissal of the prohibition order appropriate in the interest  
27    of justice, the transit district shall cancel the notice. If, following  
28    the initial review, the transit district determines that the prohibition  
29    order should be upheld in whole or in part, the transit district shall  
30    issue a written statement to that effect, including any modification  
31    to the period or scope of the prohibition order. The transit district  
32    shall serve the results of the initial review to the person contesting  
33    the notice by personal service.

34    (2) In considering whether to modify or cancel a prohibition  
35    order in the interest of justice, the transit district shall take into  
36    consideration whether the person understood the nature and extent  
37    of his or her actions, whether the person had the ability to control  
38    his or her actions, and whether the person is dependent upon the  
39    transit system for trips of necessity, such as travel to and from  
40    medical or legal appointments, school or training classes, or places

1 of employment, or to obtain food, clothing, and necessary  
2 household items; provided, however, that no prohibition order  
3 may be canceled or modified in the interest of justice if the person  
4 engaged in violent or criminal conduct, other than conduct in  
5 violation of Section 369i of the Penal Code. Any person requesting  
6 a cancellation or modification in the interest of justice shall have  
7 the burden of establishing the qualifying circumstances by a  
8 preponderance of the evidence.

9 (3) If the person is dissatisfied with the results of the initial  
10 review, the person may request an administrative hearing of the  
11 prohibition order no later than 10 calendar days after the results  
12 of the initial review are delivered by personal service. The request  
13 may be made by telephone, in writing, or in person. An  
14 administrative hearing shall be held within 30 calendar days after  
15 the receipt of a request for an administrative hearing. The person  
16 requesting the hearing may request one continuance, not to exceed  
17 seven calendar days.

18 (4) The administrative hearing process shall include all of the  
19 following:

20 (A) The person requesting the hearing shall have the choice of  
21 a hearing by mail or in person. An in-person hearing shall be  
22 conducted within the jurisdiction of the transit district.

23 (B) The administrative hearing shall be conducted in accordance  
24 with written procedures established by the transit district and  
25 approved by the governing body or chief executive officer of the  
26 transit district. The hearing shall provide an independent,  
27 objective, fair, and impartial review of the prohibition order.

28 (C) The administrative review shall be conducted before a  
29 hearing officer designated to conduct the review by the transit  
30 district's governing body or chief executive officer. In addition to  
31 any other requirements, a hearing officer shall demonstrate those  
32 qualifications, training, and objectivity prescribed by the transit  
33 agency's governing body or chief executive as are necessary to  
34 fulfill and which are consistent with the duties and responsibilities  
35 set forth in this subdivision. The hearing officer's continued  
36 service, performance evaluation, compensation, and benefits, as  
37 applicable, shall not be directly or indirectly linked to the number  
38 of prohibition orders upheld by the hearing officer.

39 (D) The person who issued the notice of prohibition order shall  
40 not be required to participate in an administrative hearing, unless

1 participation is requested by the person requesting the hearing.  
2 The request for participation must be made at least five calendar  
3 days prior to the date of the hearing and may be made by  
4 telephone, in writing, or in person. The transit district shall not  
5 be required to produce any evidence other than the notice of  
6 prohibition order. The documentation in proper form shall be  
7 prima facie evidence of the violation or violations pursuant to  
8 subdivision (d).

9 (E) In issuing a decision, the hearing officer may uphold the  
10 prohibition order in whole, determine that the prohibition order  
11 is not adequately supported, or cancel or modify the prohibition  
12 order in the interest of justice. In considering whether to modify  
13 or cancel a prohibition order in the interest of justice, the hearing  
14 officer shall take into consideration the factors identified in  
15 paragraph (2). Any person requesting a cancellation or  
16 modification in the interest of justice shall have the burden of  
17 establishing the qualifying circumstances by a preponderance of  
18 the evidence.

19 (F) The hearing officer's decision following the administrative  
20 hearing shall be delivered by personal service.

21 (G) Any person aggrieved by the final decision of the hearing  
22 officer may seek judicial review of the decision within 90 days of  
23 the date of delivery of the decision by personal service, as provided  
24 by Section 1094.6 of the Code of Civil Procedure.

25 (g) Any person issued a prohibition order under subdivision (d)  
26 may, within 10 calendar days of the date the order goes into effect  
27 under paragraph (5) of subdivision (e), request a refund for any  
28 prepaid fare media rendered unusable in whole or in part by the  
29 prohibition order, including, but not limited to, monthly passes.  
30 If the fare media remains usable for one or more days outside the  
31 period of the prohibition order, the refund shall be prorated based  
32 on the number of days the fare media will be unusable. The  
33 issuance of a refund may be made contingent on surrender of the  
34 fare media. If a request for a refund is not made within 10 calendar  
35 days of the date the prohibition order goes into effect, no refund  
36 will be issued.

37 ~~(d)~~

38 (h) A transit district shall provide reasonable notification to the  
39 public of the activities prohibited by this section and the penalties  
40 for violations of those prohibitions.

1     ~~(e)~~

2     ~~(i)~~ This section does not prohibit any person from engaging in  
3 activities that are protected under the laws of the United States or  
4 of this state, including, but not limited to, picketing, demonstrating,  
5 or distributing handbills.

6     ~~(f)~~

7     ~~(j)~~ Transit districts shall maintain records of violations and the  
8 number of citations issued with respect to the actions prohibited  
9 under this section until January 1, 2005. The transit districts shall  
10 prepare a summary report of these actions and related findings  
11 with respect to the implementation and operation of this section  
12 and shall submit the report to the Legislature on or before January  
13 1, 2006.

14    ~~(g)~~

15    ~~(k)~~ No revenue from fines imposed pursuant to subdivision (c)  
16 shall be distributed or allocated to the transit agency issuing  
17 citations under this section. Fine revenue instead shall be allocated  
18 to the other entities eligible to receive those funds under existing  
19 law.

20    *SEC. 3. Section 99171 is added to the Public Utilities Code,*  
21 *to read:*

22    *99171. (a) Prior to exercising the authority given in*  
23 *subdivision (d) of Section 99170 to issue prohibition orders, a*  
24 *transit district shall do both of the following:*

25    *(1) Establish an advisory committee for the purpose of*  
26 *evaluating the procedures for and issuance of prohibition orders*  
27 *and recommending a course of training for personnel charged*  
28 *with issuance and enforcement of prohibition orders.*

29    *(2) Ensure that personnel to be charged with issuance and*  
30 *enforcement of prohibition orders have received training as*  
31 *recommended by the advisory committee.*

32    *(b) The advisory committee shall be composed of at least five*  
33 *members appointed by the legislative body of the transit district.*  
34 *At least one of the members of the advisory committee shall have*  
35 *experience working with individuals with mental illnesses.*

36    *(c) The advisory committee shall be tasked, at a minimum, with*  
37 *all of the following:*

38    *(1) Providing recommendations, in consultation with the county*  
39 *mental health boards within the service area of the transit district,*  
40 *regarding the type and extent of training that should be undertaken*

1 *by individuals with responsibility for issuance and enforcement*  
2 *of prohibition orders, with particular emphasis on training*  
3 *designed to assist those individuals in identifying and interacting*  
4 *with individuals with mental illnesses.*

5 *(2) Identifying, in consultation with the county mental health*  
6 *boards within the service area of the transit district, services and*  
7 *programs to which individuals who may have mental illnesses may*  
8 *be referred by transit district enforcement personnel prior to or*  
9 *in conjunction with issuance of a prohibition order.*

10 *(3) To monitor the issuance of prohibition orders to assist the*  
11 *transit district in ensuring compliance with Section 51 of the Civil*  
12 *Code.*

13 *(d) The transit district may use an existing advisory committee*  
14 *to fulfill the requirements of this section, provided that composition*  
15 *and purpose of the existing advisory committee are modified to*  
16 *meet the requirements of this section.*

17 *SEC. 4. Section 102122 of the Public Utilities Code is amended*  
18 *to read:*

19 *102122. (a) The board of directors may adopt ordinances that*  
20 *do any of the following:*

21 *(1) Prohibit persons from knowingly giving false identification*  
22 *to a district employee engaged in the enforcement of district*  
23 *ordinances or state laws, or otherwise obstructing the issuance of*  
24 *a citation for violation of district ordinances or state law.*

25 *(2) Prohibit unauthorized operation of, interference with, entry*  
26 *into, climbing upon, attaching to, or loitering on or in transit*  
27 *facilities or other transit property.*

28 *(3) Prohibit the removal, displacement, injury, destruction, or*  
29 *obstruction of any part of any track, switch, turnout, bridge, culvert,*  
30 *or any other district structure or fixture.*

31 *(4) Specify conditions under which a passenger may board a*  
32 *district vehicle with a bicycle and where the bicycle may be stowed.*

33 *(b) The board may provide that a violation of any ordinance*  
34 *adopted pursuant to subdivision (a) is an infraction punishable by*  
35 *a fine not exceeding seventy-five dollars (\$75), and that a violation*  
36 *by a person after the second conviction is punishable by a fine not*  
37 *to exceed two hundred fifty dollars (\$250) and by community*  
38 *service for a total time not to exceed 48 hours over a period not to*  
39 *exceed 30 days which do not conflict with the violator's hours of*  
40 *school attendance or employment.*

1 (c) The board may designate persons regularly employed by the  
2 district as inspectors ~~or~~, supervisors, *or security guards* whose  
3 duties shall include enforcement of district ordinances adopted  
4 under subdivision (a), Sections 640 and 640.5 of the Penal Code,  
5 and Section 22656 of the Vehicle Code. The designated persons  
6 shall have the authority set forth in ~~Section~~ *Sections 836.5 and*  
7 *853.5* of the Penal Code.

8 (d) This section does not prohibit any person from engaging in  
9 activities that are protected under the laws of the United States or  
10 of California, including, but not limited to, picketing,  
11 demonstrating, or distributing handbills.

12 *SEC. 5. No reimbursement is required by this act pursuant to*  
13 *Section 6 of Article XIII B of the California Constitution because*  
14 *the only costs that may be incurred by a local agency or school*  
15 *district will be incurred because this act creates a new crime or*  
16 *infraction, eliminates a crime or infraction, or changes the penalty*  
17 *for a crime or infraction, within the meaning of Section 17556 of*  
18 *the Government Code, or changes the definition of a crime within*  
19 *the meaning of Section 6 of Article XIII B of the California*  
20 *Constitution.*

21 ~~SECTION 1. Section 7508 of the Public Utilities Code is~~  
22 ~~amended to read:~~

23 ~~7508. Subject to the provisions of Part 1 (commencing with~~  
24 ~~Section 201) of Division 1 and of the Corporations Code, any~~  
25 ~~railroad corporation, or person or corporation owning any railroad~~  
26 ~~in this State, may sell, convey, and transfer its property and~~  
27 ~~franchises, or any part thereof, to any other railroad corporation,~~  
28 ~~whether organized under the laws of this State or of any other state~~  
29 ~~or territory, or under any act of Congress. The railroad corporation~~  
30 ~~receiving the conveyance may hold and operate the railroad~~  
31 ~~franchises and property within this State, build and operate~~  
32 ~~extensions and branches thereof, exercise the right of eminent~~  
33 ~~domain for such purposes, and do any other business in connection~~  
34 ~~therewith, as fully and effectually as if the corporation was~~  
35 ~~organized under the laws of this State.~~